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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael Spencer

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EXAMINER

BORLINGHAUS, JASON M

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

02/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	09/777,987		SPENCER ET AL.	
	Examiner		Art Unit	
	Jason M. Borlinghaus		3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-102 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1 - 100 and 102** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "where possible" in Claim 1 and the term "to the extent possible" in Claim 102 is a relative term that renders the claim indefinite. Such terminology is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention.

**Claims 2 – 100** are rejected based upon their dependency from Claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1 – 2, 61 – 62, 81 – 82 and 101 - 102** are rejected under 35 U.S.C.

103(a) as being unpatentable over Kalmus (US Patent 4,674,044), Disclosed Prior Art (applicant's specification, p. 1) and Official Notice.

**Regarding Claim 1**, Kalmus discloses a method of trading financial instruments (securities), using a trading system computer apparatus (CPU). (see 10, figure 1);

a plurality of client computer apparatus (branch order entry clerk) located physically remote from each other (at various branch offices) and physically remote from the trading system computer apparatus (CPU). (see 27, figure 1);

a telecommunications network (communication path) interlinking the trading system computer apparatus (CPU) and the plurality of client computer apparatus (branch order entry clerk). (see 25, figure 1);

the method comprising the steps of:

- (a) using at least one of the client computer apparatus (brokerage firm's account executives computer system) to send (communicate) to the trading system computer apparatus (CPU) via the telecommunications network (communication path) a plurality of offers for sale of financial instruments (orders). (see col. 4, line 51 – col. 5, line 5);

(b) using at least one of the client computer apparatus (brokerage firm's account executives computer system) to send (communicate) to the trading system computer apparatus (CPU) via the telecommunications network (communication path) a plurality of bids for purchase of financial instruments (orders). (see col. 4, line 51 – col. 5, line 5);

(c) using the trading system computer apparatus to:

- establish a continuous order entry period (real-time submission) during which offers for sale and bids for purchase (orders) can be submitted to the trading system computer apparatus (CPU). (see col. 4, line 51 – col. 5, line 5);
- compare (processing) all offers for sale and bids (orders) for purchase made in a continuous order entry period (real-time order inflow). (see col. 5, line 31 – 45);
- to record for each order at least one benchmark trading rate (limit order price) representing a price at which transactions involving matched offers for sale and bids for purchase are executed without review (automatically without human intervention) of said price by traders that submitted the matched offers for sale and bids for purchase. (see col. 2, line 64 – col. 3, line 6; col. 10, lines 23 – 35);

- to make available electronically via the telecommunications network (communication path) information regarding the offers and/or bids (orders) which have been executed. (see col. 5, line 22 – 30);
- such information for each executed pair of offer and bid (orders) being sent only to the traders (computer for customers of that brokerage house or reported to the appropriate other institution) who made (submitted) the executed offer and bid (orders). (see col. 5, line 22 – 30); and
- to make available electronically (via customer account processor) information regarding trades (trade records). (see col. 3, line 55 – col. 4, line 6).

Kalmus does not teach underlined claim limitations - a method comprising the steps of:

- (c) using the trading system computer apparatus to:
  - establish a succession of time limited order entry periods during which offers for sale and bids for purchase can be submitted to the trading system computer apparatus;
  - compare all offers for sale and bids for purchase made in a single order entry period at the end of the order entry period;
  - to match where possible the compared offers for sale and bids for purchase;

- to record for each order entry period at least one benchmark trading rate representing a price at which transactions involving matched offers for sale and bids for purchase are executed without review of said price by traders that submitted the matched offers for sale and bids for purchase; and
- to make available electronically via the telecommunications network information regarding the offers and/or bids which have been matched, such information for each matched pair of offer and bid being sent only to the traders who made the matched offer and bid and such information including the identity of traders responsible for each matched pair of offer and bid and the benchmark trading rate set for the transaction.

Disclosed Prior Art discloses a method comprising the steps of:

- matching where possible (where agreed upon price match) the compared offers for sale and bids for purchase. ("The broker receive buying orders and selling orders and will match buyers to sellers at a price agreed between the buyer and seller." – see p. 1)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to have further modified Kalmus by incorporating the ability to match offers for sale and bids for purchase where possible, as disclosed by Disclosed Prior Art, to ensure that both parties to the transaction are as satisfied by the outcome of the transaction.

Examiner takes Official Notice that trading, matching or selling items in a succession of discrete time-based periods, such as auction rounds, and completing such transaction at the end of said period is old and well known in the art of marketplace and auction management. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus and Disclosed Prior Art by incorporating a succession of discrete time-based periods at the end of which orders are processed, as is old and well known in the art, as such is conventional and/or standard in the art of auction management.

Examiner takes Official Notice that recording and/or disclosure of information related to a trade, transaction and/or sale is old and well known in the art of sales and investment transactions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating the ability to make information related to the trade, whether executed electronically, as disclosed by Kalmus, or executed manually, as disclosed by Disclosed Prior Art, in the information disclosed by the system as trade records, as disclosed by Kalmus, and to include any information in said records communicated by the system as desired by the inventor, such as the identity of the trader that matched the bids and offers and/or the before-mentioned benchmark rate. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Regarding Claim 2**, Kalmus discloses a method:

- wherein each offer and each bid (order) specifies a financial value (price particulars). (see col. 4, line 51 – col. 5, line 5).



Kalmus does not teach underlined claim limitations a method:

- wherein each offer and each bid specifies a financial value and the trading system computer apparatus' when matching offers and bids initially attempts for each offer to find a bid which is of exactly the same financial value and individually attempts for each bid to find an offer which is of exactly the same financial value.

Disclosed Prior Art discloses a method:

- wherein the trading system computer apparatus (broker) when matching offers and bids (orders) initially attempts for each offer to find a bid which is of exactly the same financial value (price agreed upon) and individually attempts for each bid to find an offer which is of exactly the same financial value (price agreed upon). (see p. 1).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating the ability to match offers for sale and bids for purchase based upon financial value, as disclosed by Disclosed Prior Art, to provide a basis for matching bids and offers, and a metric by which to ensure supply and demand are equalized.

**Regarding Claims 61 – 62 and 81 – 82,** Kalmus discloses a method wherein:

- use of a computer as client as client computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45); and

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- use of one or more computers as a trading computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45).

Kalmus does not teach underlined claim limitations – a method wherein:

- use of a personal computer as client as client computer apparatus in a computerized trading system operated to process trades in financial instruments; and
- use of one or more servers as a trading computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45).

Examiner takes Official Notice that utilization of personal computers and/or servers for a wide array of computation and/or processing activities is old and well known in the art of computer systems and information technology. It would have been obvious to one of ordinary skill at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating the use of a personal computer, as is old and well known, for the processing of financial instruments, allowing for automation of a manual process.

**Regarding Claims 101**, Kalmus discloses a method of trading financial instruments, comprising:

- (a) transmitting bids and offers (orders) for financial instruments from a plurality of client computer apparatus (branch order entry clerk) to a trading system computer apparatus (CPU) via a

telecommunications network (communication path), said bids and offers specifying quantities (number of shares in market order) but not specifying prices (as market orders are conducted at market prevailing price). (see figure 1; col. 2, line 55 – col. 3, line 13; col. 4, line 51 – col. 5, line 5);

- (b) establishing an order entry period during which bids and offers (orders) can be submitted (communicated) to the trading system computer apparatus (CPU). (see col. 4, line 51 – col. 5, line 5);
- (c) processing the bids and offers submitted to generate matched bids and offers. (see col. 5, lines 31 – 45);
- (d) executing transactions involving the matched bids and offers at a price without review (automatically without human intervention) of said price by traders that submitted the bids and offers (as in a market order). (see col. 2, line 64 – col. 3, line 6; col. 10, lines 23 – 35); and
- (e) transmitting (communicating) information regarding the bids and offers which have been matched to the plurality of client computer apparatus. (see col. 3, line 55 – col. 4, line 6).

Kalmus does not teach underlined claim limitations – a method comprising:

- (b) establishing a succession of time limited order entry periods during which bids and offers can be submitted to the trading system computer apparatus; and

- (c) processing the bids and offers submitted during a single order entry period at the end of the order entry period to generate matched bids and offers.

Examiner takes Official Notice that trading, matching or selling items in a succession of discrete time-based periods, such as auction rounds, and completing such transaction at the end of said period is old and well known in the art of marketplace and auction management. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating a succession of discrete time-based periods at the end of which orders are processed, as is old and well known in the art, as such is conventional and/or standard in the art of auction management.

**Regarding Claim 102**, Claim 102 recites similar limitations and/or would have been obvious based upon Claim 101 rejected above, and is therefore rejected using the same art and rationale as applied in the rejection of Claims 101.

As for additional and/or differing claim limitations, Kalmus discloses a method wherein:

- (i) a first order and another order having the an indicated quantity (number of shares) and indicated additional conditions (limit order pricing). (see col. 5, lines 46 – 61);

Kalmus does not disclose underlined claim limitations – a method wherein:

- (i) attempting to match a first order with another order having the same quantity and the same additional conditions as the first order.

- (ii) if no other order is identified that exactly matches the first order in terms of quantity and additional conditions, attempting to match the first order with another order having the same quantity as the first order, and
- (iii) if no other order is identified that exactly matches the first order in terms of quantity, attempting to match the first order sequentially with other orders to the extent possible given conditions specified for the first order and the other orders.

Examiner takes Official Notice that matching rules and priority rules, such as matching orders based upon quantity and/or additional conditions, such as price, is old and well known in the art of marketplace management and order/purchasing fulfillment systems. For example, Disclosed Prior Art discloses matching based upon price (see p. 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice to allow for any prioritizing of the match criteria, such as quantity, price, as disclosed by Disclosed Prior Art, or any other additional conditions that the inventor desired. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Examiner takes Official Notice that matching submitted orders and/or requests as close as possible is old and well known in the art of marketplaces and order fulfillment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by

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incorporating the matching of submitted orders as closely as possible, as is old and well known, for such is conventional and/or standard in the art.

**Claims 5 - 6, 65 - 66 and 85 - 86** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art and Official Notice, as applied in Claims 1 - 2 above, and in further view of Spence (Spence, Donald. *Introduction to Futures and Options*. Woodhead Publishing Limited. 1997. pp. 55 - 56).

**Regarding Claims 5 - 6**, Kalmus discloses a method wherein:

- each offer for sale (order) contains information regarding a financial value (price particulars) of each financial instrument and other information (and so forth). (see col. 4, line 51 - col. 5, line 5);
- each bid for purchase (order) contains information regarding a financial value (price particulars) of each financial instrument requested and other information (and so forth). (see col. 4, line 51 - col. 5, line 5);
- the computerized trading system (CPU) executes bids and offers (orders). (see col. 4, line 51 - col. 5, line 5).

Kalmus does not teach underlined claim limitations - a method wherein:

- each offer for sale contains information regarding a financial value of each financial instrument and a maturity date of each financial instrument;
- each bid for purchase information regarding a financial value of each financial instrument requested and a maturity date of each financial instrument; and

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- the computerized trading system matches bids and offers by matching the financial values and maturity dates of the bids and offers.

Spence discloses a method wherein:

- financial instruments (interest rate swaps) are based upon the financial value (pre-determined cashflow amounts) to be paid at a maturity date (pre-specified date). (see p. 55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating the submission of a financial value and maturity date of each financial instrument as both components are key to assessing the value of an interest rate swap, as disclosed by Spence, allowing the matching conducted, as disclosed by Disclosed Prior Art, to be more accurate and precise in its matching of swaps by the system through consideration of financial value and maturity dates which are key components of the financial instruments.

**Regarding Claims 65 – 66 and 85 – 86,** Kalmus discloses a method wherein:

- use of a computer as client as client computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45); and
- use of one or more computers as a trading computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45);

Kalmus do not teach underlined claim limitations – a method wherein:

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- use of a personal computer as client as client computer apparatus in a computerized trading system operated to process trades in financial instruments; and
- use of one or more servers as a trading computer apparatus in a computerized trading system operated to process trades in financial instruments. (see col. 3, line 55 – col. 5, line 45);

Examiner takes Official Notice that utilization of personal computers and/or servers for a wide array of computation and/or processing activities is old and well known in the art of computer systems and information technology. It would have been obvious to one of ordinary skill at the time the invention was made to have modified Kalmus, Disclosed Prior Art, Official Notice and Spence by incorporating the use of a personal computer, as is old and well known, for the processing of financial instruments, allowing for automation of a manual process.

**Claims 3 – 4, 7 – 8, 63 – 64, 67 – 68, 83 – 84 and 87 - 88** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art and Official Notice as applied to Claims 1-2 above, and further in view of Stoll (Stoll, Hans R. *Microstructure of World Trading Markets*. Springer. February 1, 1993. p. 311).

**Regarding Claims 3 – 4**, Kalmus discloses a method wherein:

- the trading system computer apparatus (CPU) processes each offer and each bid (order) in the order that the offer or bid is made (real-time order inflow). (see col. 5, line 31 – 45).



Kalmus fail to teach underlined claim limitations – a method wherein:

- the trading system computer apparatus allocates to each offer and each bid a queue number allocating a priority to the offer or bid dependent on how soon after the start of an order entry period the offer or bid is made;  
and
- the trading system computer apparatus at the end of each order entry period compares bids and offers made in the order entry period by starting with the bid or offer with the earliest queue number and then comparing the bid or offer with later made bids or offers successively having reference to the queue numbers of the later made bids or offers and starting with the earliest later made bid or offer.

Stoll discloses a method wherein:

- the trading system computer apparatus (automated double auction systems) allocates to each offer and each bid a queue number allocating a priority to the offer or bid dependent on how soon after the start of an order entry period (auction) the offer or bid is made. (see Section 1.5, p. 11); and
- the trading system computer apparatus (automated double auction systems) compares bids and offers made in the order entry period (auction) by starting with the bid or offer with the earliest queue number and then comparing the bid or offer with later made bids or offers successively having reference to the queue numbers of the later made

bids or offers and starting with the earliest later made bid or offer. (see Section 1.5, p. 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art, Official Notice and Spence by incorporating the use of a time-based priority system, as disclosed by Stoll, by which to match offers and bids, as disclosed by Disclosed Prior Art, at the close of a order entry time period, as time priority "encourages liquidity by giving primary access to order flow to the most timely supplier of liquidity." (see section 1.5, p. 11).

**Regarding Claims 7 – 8**, Claims 7 - 8 recite similar limitations to Claims 5 - 6 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 5 – 6.

**Regarding Claims 63 – 64, 67 – 68, 83 – 84, and 87 - 88**, Claims 63 – 64, 67 – 68, 83 – 84, and 87 – 88 recite similar limitations to Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86.

**Claims 9 – 10, 13 – 14, 17 – 18, 69 – 70, 73 – 74, 77 - 78, 89 – 90, 93 – 94 and 97 – 98** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Bergman, Disclosed Prior Art, Official Notice and Spence as applied to Claims 5 - 6 above, and further in view of Brown (Brown, David L. & Bentley, Kassandra. *Getting Started In Online Investing*. John Wiley & Son. 1999. pp. 119 – 121) and Finebaum (PG Pub 2002/0156719).

**Regarding Claims 9 – 10 and Claims 13 - 14**, prior art reference(s) do not teach underlined claim limitations – a method wherein:

- each offer for sale/bid for purchase contains information specifying whether the offer/bid must be accepted in full or whether the offer/bid can be accepted in part;
- the computerized trading system checks initially whether each offer for sale/bid for purchase can be matched in full with a bid for purchase/offer for sale and when an offer for sale/bid for purchase which can be accepted in part cannot be matched in full then the computerized matching system will match the offer for sale with a bid for purchase/offer for sale of a lesser financial value and will calculate a remainder value;  
and
- the computerized trading system attempts to match the remainder value of each offer for sale/bid for purchase with remaining bids for purchase/offers for sale.

Brown discloses a method wherein:

- each offer for sale/bid for purchase contains information specifying whether the offer/bid must be accepted in full (All or None) or whether the offer/bid can be accepted in part (Partial Fill); (see p. 120).

Finebaum discloses a method wherein:

- the computerized trading system checks initially whether each offer for sale/bid for purchase can be matched in full with a bid for purchase/offer

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for sale (full match) and when an offer for sale/bid for purchase which can be accepted in part cannot be matched in full then the computerized matching system will match the offer for sale with a bid for purchase/offer for sale of a lesser financial value (partial match) and will calculate a remainder value (face amount that did not trade in the 'pending state').

(see p. 20, para. 402 – 403); and

- the computerized trading system attempts to match the remainder value of each offer for sale/bid for purchase with remaining bids for purchase/offers for sale. (face amount remains in pending state until...the remainder of the order is matched by the system). (see p. 20, para. 402 – 403).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art, Official Notice and Spence by incorporating the ability for the offer or bid to contain information specifying whether the order must be accepted in full or whether it can be accepted in part, as disclosed by Brown, to allow for the use of a standard and conventional order specification utilized in investments.

It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have modified Kalmus, Disclosed Prior Art, Official Notice Brown and Spence by incorporating the ability to match in full or, when not possible, in part, retaining the remainder value of the order for future matching, as disclosed by Finebaum, allowing for optimal execution of the orders, allowing for completion of orders in their entirety, when possible, and, when not, piece-meal.

**Regarding Claims 17 – 18,** Claims 17 – 18 recite similar limitations to Claims 13 – 14 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 13 – 14.

**Regarding Claims 69 – 70, 73 – 74, 77 – 78, 89 – 90, 93 – 94 and 97 – 98,** Claims 69 – 70, 73 – 74, 77 – 78, 89 – 90, 93 – 94 and 97 – 98 recite similar limitations to Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86.

**Claims 11 – 12, 15 – 16, 19 – 20, 71 – 72, 75 – 76, 79 – 80, 91 – 92, 95 – 96 and 99 – 100** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence and Stoll as applied to Claims 7 - 8 above, and further in view of Brown and Finebaum.

**Regarding Claims 11 – 12 and 15 – 16,** Claims 11 – 12 and 15 – 16 recite similar limitations to Claims 9 – 10 and 13 – 14, respectively, and are therefore rejected using the same art and rationale as applied in the rejection of Claims 9 – 10 and 13 – 14.

**Regarding Claims 19 – 20,** Claims 19 – 20 recite similar limitations to Claims 13 – 14 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 13 – 14.

**Regarding Claims 71 – 72, 75 – 76, 79 – 80, 91 – 92, 95 – 96 and 99 – 100,** Claims 71 – 72, 75 – 76, 79 – 80, 91 – 92, 95 – 96 and 99 – 100 recite similar limitations to Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86 and are therefore rejected using the

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same art and rationale as applied in the rejection of Claims 61 – 62, 65 – 66, 81 – 82 and 85 – 86.

**Claims 21 – 22 and 25 - 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice and Spence as applied to Claims 5 - 6 above, and further in view of Wiseman (US Patent 5,168,446).

**Regarding Claims 21 – 22 and 25 – 26**, Kalmus discloses a method wherein:

- an offer or a bid specifies special instructions. (see col. 5, lines 46 – 59).

Prior Art references do not teach underlined claim limitations – a method wherein:

- each trader when making an offer or a bid specifies which other traders can be considered for a matching bid or offer and the trading computer apparatus considers the identities of the traders responsible for each potential pair of matched bid and offer and will match the pair of bid and offer only if each relevant trader has been specified as an acceptable trader by the other.

Wiseman discloses a method wherein:

- each trader (commodity trader) when making an offer or a bid specifies which other traders (counterparties) can be considered for a matching bid or offer and the trading computer apparatus considers the identities (counterparties) of the traders responsible for each potential pair of matched bid and offer and will match the pair of bid and offer only if each

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relevant trader (counterparty) has been specified as an acceptable trader (counterparty) by the other. (see col. 2, line 11 – col. 4, line 64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art, Official Notice and Spence by incorporating the ability to specify acceptable traders for a transaction and conducting transactions only between said traders, as disclosed by Wiseman, in the specification of special instructions submitted as a portion of the submitted order, as disclosed by Kalmus, to allow for development of a preferred trader network and the selecting of preferred trading partners.

**Claims 23 - 24 and 27 - 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence and Stoll, as applied to 7 - 8 above, and further in view of Wiseman (US Patent 5,168,446).

**Regarding Claims 23 - 24 and 27 - 28**, Claims 23 and 27 - 28 recite similar limitations to Claims 21 – 22 and 24 – 25 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 21 – 22 and 25 – 26.

**Claims 29 – 30, 33 – 34 and 37 – 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence, Brown and Finebaum, as applied to Claims 9 – 10, 13 – 14 and 17 - 18 above, and further in view of Wiseman.

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**Regarding Claims 29 – 30, 33 – 34 and 37 – 38**, Claims 29 – 30, 33 – 34 and 37 – 38 recite similar limitations to Claims 21 – 22 and 25 – 26 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 21 – 22 and 25 – 26.

**Claims 31 – 32, 35 – 36 and 39 - 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence, Stoll, Brown and Finebaum, as applied to Claims 11 – 12, 15 – 16 and 19 - 20 above, and further in view of Wiseman.

**Regarding Claims 31 – 32, 35 – 36 and 39 - 40**, Claims 31 – 32, 35 – 36 and 39 – 40 recite similar limitations to Claims 21 – 22 and 24 – 25 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 21 – 22 and 25 – 26.

**Claims 41 – 42 and 45 - 46** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art and Official Notice, as applied to Claims 1 - 2 above, and further in view of Thau (Thau, Annette. *The Bond Book*. 2<sup>nd</sup> Edition. McGraw-Hill. November 2, 2000. pp. 146 – 147).

**Regarding Claims 41 – 42 and 45 – 46**, Kalmus discloses a method wherein:

- the trading system computer (system) makes accessible via the telecommunications network (communication path) a record of bids and



offers (order executions, current quotations) made by traders within the system (see col. 5, lines 23 – 45).

Prior art references do not teach underlined claim limitations – a method wherein:

- the financial instruments traded each have a maturity date and the trading system computer apparatus makes accessible to all the traders via the telecommunications network a record of how many bids and offers have been made in total by all traders for financial instruments in a plurality of maturity periods.

Thau discloses a method wherein:

- the financial instruments (bonds) each have a maturity date (maturity date) and the system computer apparatus (investinginbonds.com) makes accessible to all traders (public) via a telecommunications network (Internet) a record of how many bods and offers have been made in total (volume traded) by all traders for financial instruments in a plurality of maturity periods. (see pp. 146 – 147).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art and Official Notice by incorporating a recording and/or dispersal information system, as disclosed by Thau, providing further market transparency, allowing for all traders to have access to pertinent data by which to produce and submit their own orders for execution.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Kalmus, Disclosed Prior Art, Official

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Notice, Spence and Thau to allow for the recording and/or dispersal of any additional data and/or metrics that would be considered pertinent to a trader, and any organization and/or segmenting of said data that the inventor desired. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

**Claims 43 - 44 and 47 - 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice and Stoll, as applied to Claims 3 - 4 and 7 - 8 above, and further in view of Thau.

**Regarding Claims 43 - 44 and 47 - 48**, Claims 43 - 44 and 47 - 48 recite similar limitations to Claims 41 - 42 and 45 - 46 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 41 - 42 and 45 - 46.

**Claims 49 - 50, 53 - 54 and 57 - 58** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence, Brown and Finebaum, as applied to Claims 9 - 10, 13 - 14 and 17 - 18 above, and further in view of Thau.

**Regarding Claims 49 - 50, 53 - 54 and 57 - 58**, Claims 49 - 50, 53 - 54 and 57 - 58 recite similar limitations to Claims 41 - 42 and 45 - 46 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 41 - 42 and 45 - 46.

**Claims 51 – 52, 55 – 56 and 59 - 60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus, Disclosed Prior Art, Official Notice, Spence, Stoll, Brown and Finebaum, as applied to Claims 11 – 12, 15 – 16 and 19 – 20 above, and further in view of Thau.

**Regarding Claims 51 – 52, 55 – 56 and 59 - 60**, Claims 51 – 52, 55 – 56 and 59 - 60 recite similar limitations to Claims 41 – 42 and 45 – 46 and are therefore rejected using the same art and rationale as applied in the rejection of Claims 41 – 42 and 45 – 46.

### ***Response to Arguments***

As agreed upon between Applicant's Representative (Stephen Palan), Examiner (Jason Borlinghaus) and Supervisory Patent Examiner (James Kramer) in an examiner's interview on 1/16/07, the Final Rejection issued on 11/16/06 is being withdrawn.

This Non-Final Rejection is substantially similar to the withdrawn Final Rejection, utilizing the same arguments and references, but has been rewritten to a small extent to address issues related to unclear usage of Official Notice and prior art references in the previous Office Action.

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection. As various concerns concerning application of Official Notice and prior art references were cited in the above-mentioned

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examiner's interview, Examiner interprets the reworded and reworked Office Action as essentially new ground(s) of rejection.

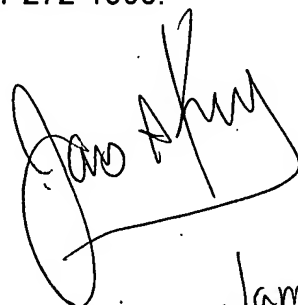
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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 2/1/07  
James Kramer